

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shalini Tripathi	Team: Team # 4	CCRB Case #: 201114739	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/08/2011 6:15 PM	Location of Incident: near the intersection of Sterling Place and Ralph Avenue	Precinct: 77	18 Mo. SOL 5/8/2013	EO SOL 5/8/2013	
Date/Time CV Reported Tue, 11/08/2011 6:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/11/2011 3:17 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Yevgeniy Zaytsev	12848	949825	PBBN
2. POM Alex Viera	14168	945080	077 PCT
3. POM Brent Curry	03041	948837	068 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Doris Cordero	01289	949426	078 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Yevgeniy Zaytsev	Discourtesy: PO Yevgeniy Zaytsev spoke discourteously to § 87(2)(b)	
B.POM Yevgeniy Zaytsev	Force: PO Yevgeniy Zaytsev pointed his gun at § 87(2)(b)	
C.POM Yevgeniy Zaytsev	Force: PO Yevgeniy Zaytsev attempted to strike § 87(2)(b) with a nightstick.	
D.POM Yevgeniy Zaytsev	Abuse: PO Yevgeniy Zaytsev threatened § 87(2)(b) with the use of force.	
E.POM Yevgeniy Zaytsev	Force: PO Yevgeniy Zaytsev used physical force against § 87(2)(b)	
F.POM Alex Viera	Force: PO Alex Viera used physical force against § 87(2)(b)	
G.POM Brent Curry	Force: PO Brent Curry used physical force against § 87(2)(b)	

Case Summary

An anonymous female and an anonymous male, both of whom remain unidentified, called 911 on November 8, 2011, to report that officers were assaulting an unidentified man, identified by the CCRB as § 87(2)(b). The complaint was forwarded to IAB, which was subsequently forwarded the complaint to the CCRB on November 11, 2011, under log #11-51498 (encl. 3). On November 8, 2011, at 6:15 PM, § 87(2)(b) had just left Lincoln Terrace Park in Brooklyn and was walking with his brother, § 87(2)(b) and their two dogs, when PO Yevgeniv Zaytsev stopped them. The following allegations resulted:

- **Allegation A – Discourtesy: PO Yevgeniy Zaytsev spoke discourteously to § 87(2)(b)**
- **Allegation C – Force: PO Yevgeniy Zaytsev attempted to strike § 87(2)(b) with a nightstick.**
- **Allegation D – Abuse of authority: PO Yevgeniy Zaytsev threatened § 87(2)(b) with the use of force.**

§ 87(2)(g)

- **Allegation B– Force: PO Yevgeniy Zaytsev pointed his gun at § 87(2)(b)**

§ 87(2)(g)

- **Allegation E – Force: PO Yevgeniy Zaytsev used physical force against § 87(2)(b)**

§ 87(2)(g)

- **Allegation F – Force: PO Alex Viera used physical force against § 87(2)(b)**

- **Allegation G – Force: PO Brent Curry used physical force against § 87(2)(b)**

§ 87(2)(g)

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) year old black male who stands 5'11" tall, weighs 142 pounds, and has black hair and brown eyes. § 87(2)(b) did not provide his occupation.

Arrest Photograph (encl. 56)

§ 87(2)(b) arrest photograph does not show any visible injuries on his face.

Statement to Medical Personnel

On November 11, 2011, § 87(2)(b) told medical personnel at § 87(2)(b) that he wanted to get an examination after an alleged assault by police officers.

CCRB Statement

§ 87(2)(b) provided a phone statement on November 16, 2011, (encl. 6-7) and was interviewed at the CCRB on November 25, 2011 (encl. 8-10). § 87(2)(g) On November 8, 2011, at approximately 6:15 PM, § 87(2)(b) had just left Lincoln Terrace Park in Brooklyn. § 87(2)(b) had been training pit bulls in the park for approximately an hour and a half with his brother, § 87(2)(b) and some other friends. § 87(2)(b) stated that these dogs are not meant to be pets, and that he trains them in obedience and protection so that they can be used as guard dogs. He also stated that he always has a stick with him when he trains the dogs, and uses the stick to direct the dog he is trying to train. He gets these sticks from dead trees in the park. On this day, his dog was carrying a stick which was two and a half inches thick and about two and a half or three feet long. § 87(2)(b) dog was carrying a stick of approximately the same size. In the park, § 87(2)(b) had used a smaller stick while working with his dog.

§ 87(2)(b) made his dog jump over a USPS mailbox, and just as § 87(2)(b) was about to make his dog also jump over the mailbox, an officer, identified through the investigation to PO Yevgeniy Zaytsev, approached the two men with his gun drawn and pointed and asked, "Does this look like a fucking training park to you?" § 87(2)(b) said "Yes," because he thought PO Zaytsev asked him, "Were you training dogs?" PO Zaytsev was identified in § 87(2)(b) arrest report as the officer who initially approached him and subsequently arrested him. § 87(2)(b) described PO Zaytsev as a white male with black hair in his late thirties who had a Russian-sounding accent, who stood about 5'11" or 6'0", weighed about 180 pounds, was dressed in uniform, was by himself, and wore shield #12848.

PO Zaytsev asked the men again, "Does this look like a fucking training park to you?" This time, § 87(2)(b) heard him correctly and said, "No, I thought you were asking if we were training dogs." PO Zaytsev told him, "Get the fuck out of here." § 87(2)(b) replied, "Have a nice night, officer," and began to walk away. He had walked about halfway down Sterling Place when he stopped, turned around, and saw that PO Zaytsev was following him and

his brother. PO Zaytsev was saying, “Why the fuck are you walking off? Come here, motherfuckers, come the fuck here.” At this point, § 87(2)(b) handed his dog to § 87(2)(b). PO Zaytsev put his hands on § 87(2)(b) chest, and said, “Show me some fucking ID. You’re not so tough now.” § 87(2)(b) did not have his ID on him, though he also thought that the reason PO Zaytsev stopped him – because he was training dogs – was a stupid reason. PO Zaytsev asked four or five times more for § 87(2)(b) ID. At this point, PO Zaytsev had his hand on his gun, but did not take it out of the holster again. Afraid PO Zaytsev was going to hit him, § 87(2)(b) backed away. § 87(2)(b) was still holding his training stick at this point. PO Zaytsev pinned § 87(2)(b) against the wheelchair ramp entrance of a building and swung his baton at § 87(2)(b). § 87(2)(b) raised the training stick to defend his face against the baton and then ran down Sterling Place. He dropped the training stick while running. § 87(2)(b) was forced to stop near the intersection at Ralph Avenue because there was a marked police car in the middle of the intersection which contained two officers. PO Zaytsev then ran up to § 87(2)(b) and said, “I’m gonna fuck you up.” § 87(2)(b) was holding his hands behind his back at this point because he thought he was going to get arrested and also believed that it would deter PO Zaytsev from thinking he intended to hit an officer. He also noticed at this point that several officers had arrived at the scene suddenly, but did not know who they were or where they came from.

§ 87(2)(b) heard PO Zaytsev tell his fellow officers that § 87(2)(b) had been resisting arrest, and also that § 87(2)(b) had assaulted him, even though § 87(2)(b) had not made any physical contact with PO Zaytsev.

Suddenly, PO Zaytsev hit § 87(2)(b) in the face and threw him to the ground. He fell first on his left side, though the right side of his face also became swollen after the assault. PO1 and PO2, identified through the investigation to be PO Alex Viera and PO Brent Curry, exited a marked patrol car and punched § 87(2)(b) as well. § 87(2)(b) could only describe these officers as males who were dressed in uniform. Several more officers came to the scene and got out of their cars to punch and beat § 87(2)(b) body and face. These new officers also kicked him. § 87(2)(b) did not recall what these officers looked like but did recall that they were all wearing uniforms.

§ 87(2)(b) blacked out several times while he was being assaulted and so was unable to recall many specific details about the officers. He stated that he was punched in his face, back, and all over his head. He was particularly badly hit on the left side of his face and cheek. He had injuries on his top and bottom lip, which were both cut open on the left side of his mouth and bleeding. The swelling to his eye turned it black and blue, and he had pains in his head, back, and generally all over his body from being hit and kicked. Before the incident, his vision was fine, but since then, he has had a difficult time being in direct light for a prolonged period of time.

As § 87(2)(b) felt his face swell up, he heard several bystanders, who had gathered to watch the scene unfold, yell, “What was the big deal, why are you all hitting him?” Many of these bystanders told § 87(2)(b) that they had recorded the incident on their cell phones. The officers did not interact at all with § 87(2)(b) who witnessed the entire incident.

The officers put § 87(2)(b) in the Nissan Altima marked patrol car and drove him to the 77th Precinct. He did not recall which officers put him in the car, because his left eye was so swollen it closed up and he could not see out of it. He recalled that PO Zaytsev drove the car and a second officer, who he did not think assaulted him, was in the back seat with him. They searched § 87(2)(b) put him in a cell, and removed his shoe laces.

Approximately five hours after he arrived at the precinct, § 87(2)(b) was sent to Central Booking, where he stayed for approximately one to one and a half days. He returned home on November 10, 2011, after which he went to § 87(2)(b) to be examined for injuries.

§ 87(2)(b) is planning on filing a lawsuit against the city regarding this incident. He took several pictures of his injuries and said he would email the pictures to the CCRB as well as explanations of the injury each photograph documents. § 87(2)(b) had never interacted with any of the officers before, and had not seen any of them since the incident. In a phone conversation on October 11, 2012, § 87(2)(b) stated that on the date of the incident, both dogs were wearing collars and tags which identified their owners as well as their vaccination and registration status with the city.

Attempts to Contact Civilians

§ 87(2)(b) stated that his brother, § 87(2)(b) was present for the duration of this incident and provided contact information for him at his CCRB interview. Messages were left for § 87(2)(b) at both his home and cell phone numbers, asking him to contact the CCRB on February 14, 2012, February 28, 2012, March 6, 2012, March 9, 2012, and March 23, 2012. On February 14, 2012, § 87(2)(b) scheduled an interview appointment at the CCRB for February 17, 2012, an appointment he missed without calling to cancel or reschedule. Letters were sent to § 87(2)(b) on February 14, 2012, and March 9, 2012, asking him to contact the CCRB. Neither of these letters were returned to the CCRB. § 87(2)(b) has never called or otherwise contacted the CCRB.

NYPD Statements:

Subject Officer: PO YEVGENIY ZAYTSEV

- § 87(2)(b) year old white male who stands 6'0" tall, weighs 190 pounds, and has black hair and brown eyes.
- On the date of the incident, he was assigned to the patrol of foot post 53. He worked by himself dressed in uniform from 1:30 PM to 10:05 PM.

Memo Book

For November 8, 2011, PO Zaytsev had the following entries in his memo book. At 6:22 PM, he arrested § 87(2)(b). At 6:30 PM, he arrived at the station house. At 7:15 PM, PO Zaytsev noted the following about the arrest of § 87(2)(b) "Observed defendant with two pit bull dogs and two long sticks of wood. Arresting officer approached defendant to verify dog license as both pit bulls had no dog tags. The defendant refused to identify himself and swung a stick of wood at arresting officer when approached. Arresting officer attempted to handcuff the defendant, who flared his arms and ran eastbound down Sterling Place to resist arrest. Defendant also created hazardous condition as pedestrian traffic could not pass because of pit bulls."

Arrest Report

The narrative of § 87(2)(b) arrest report (encl. 16-17) states that PO Zaytsev observed § 87(2)(b) with two pit bull dogs and two sticks of wood. PO Zaytsev noticed neither dog had dog tags and so approached § 87(2)(b) then swung one of the pieces of wood at PO Zaytsev. PO Zaytsev tried to handcuff § 87(2)(b) at which point § 87(2)(b) ran away, resisting arrest. The report also stated that § 87(2)(b) and his pit bulls had created hazardous conditions because pedestrian traffic could not pass. § 87(2)(b) was

CCRB Statement

PO Yevgeniy Zaytsev was interviewed at the CCRB on April 27, 2012 (encl. 18-20). On November 8, 2011, at approximately 6:15 PM, PO Zaytsev, who had been standing at his foot post, observed § 87(2)(b) and his brother, § 87(2)(b) walking down the street. Each man had a stick and a pit bull. The brothers began to taunt the dogs, making the dogs bark. Then Malik Montcrieft started making the dogs jump over a United States Postal Service mailbox. PO Zaytsev noticed that there were children near the dogs who did not want to use the sidewalk while the dogs were doing tricks, and so he approached the § 87(2)(b) brothers and told them that they were not at a park and that they would have to move elsewhere. PO Zaytsev had his gun on his hand, and explained that he always keeps his hand on his gun, but he did not take it out of the holster at any point during this interaction.

While talking to the brothers, PO Zaytsev saw that their dogs did not have tags and so he asked to see the brothers' ID cards. PO Zaytsev noted that dogs are supposed to wear tags indicating that they have been vaccinated and registered with the city. However, these dogs were not wearing collars but were wearing ropes without tags around their necks.

§ 87(2)(b) said, "I'm not showing you anything, go fuck yourself." At this point, § 87(2)(b) began walking away, and PO Zaytsev asked for his ID again. PO Zaytsev also asked him to drop the stick he was carrying. PO Zaytsev recalled that he asked § 87(2)(b) to drop his stick at least three times. PO Zaytsev also recalled that he asked § 87(2)(b) to produce his ID three times. PO Zaytsev did not ask § 87(2)(b) for his ID at all because § 87(2)(b) had not made the dogs jump over the mailbox.

§ 87(2)(b) swung the stick he had in his hands at PO Zaytsev at this point. PO Zaytsev leaned back to avoid being hit with the stick and subsequently tripped backwards over his feet. PO Zaytsev confirmed that he wears an asp on his belt at all times and stated that at the point that § 87(2)(b) swung his stick out, he might have reached for the asp, but he did not recall attempting to use the asp on § 87(2)(b) during this incident. When PO Zaytsev fell backwards, § 87(2)(b) dropped his stick, left his dog with his brother, and began running down the street. PO Zaytsev called a 10-85 [additional police units necessary] over the radio and then ran after § 87(2)(b) chasing him for approximately one block until he reached Sterling Place and Buffalo Avenue.

When PO Zaytsev caught up to § 87(2)(b) at this intersection, § 87(2)(b) turned around, faced PO Zaytsev, and took a fighting stance. Before § 87(2)(b) could punch PO Zaytsev, however, PO Zaytsev grabbed him and tried to handcuff him. § 87(2)(b) resisted this attempt by flailing his arms. PO Zaytsev added that he told § 87(2)(b) to put his hands behind his back while the two were struggling, but § 87(2)(b) refused to cooperate with this command. In the course of this struggle, the men fell to the ground, with § 87(2)(b) hitting the street chest-first. At this point, several police cars arrived at the scene. PO Zaytsev did not know who these new officers were and also did not know how many additional officers responded to the scene.

Other officers had to assist PO Zaytsev handcuff § 87(2)(b). PO Zaytsev recalled that once he was handcuffed, § 87(2)(b) stopped resisting. PO Zaytsev did not recall hearing § 87(2)(b) say anything to him while he was trying to handcuff § 87(2)(b).

PO Zaytsev did not punch or strike § 87(2)(b) at any point during this incident. PO Zaytsev did not recall seeing any of the additional officers who arrived at the scene to assist him punch or kick § 87(2)(b). PO Zaytsev did recall that the other officers tried to hold down

§ 87(2)(b) so that PO Zaytsev could place handcuffs on him. PO Zaytsev did not know who the other officers were who responded to the scene. He recalled that at least one of these new officers got out of his car but he did not see who this officer was.

PO Zaytsev did not say during this incident, “Does this look like a fucking training park to you?” or “Get the fuck out of here,” “Show me some fucking ID,” “Why the fuck are you walking off? Come here, motherfuckers, come the fuck here.” PO Zaytsev did not recall hearing any other officers at the scene using discourteous language.

PO Zaytsev put § 87(2)(b) into a police car belonging to one of the new officers who responded to the 10-85 call. PO Zaytsev rode in this car, which was driven by an officer he did not know, with § 87(2)(b) back to the 77th Precinct stationhouse. § 87(2)(b) did not accompany them. § 87(2)(b) did not ever complain to PO Zaytsev that his face or back hurt. PO Zaytsev asked § 87(2)(b) if he needed a doctor or any sort of medical attention on the way to the stationhouse, but § 87(2)(b) refused. PO Zaytsev did not recall seeing any injuries on § 87(2)(b) face.

Subject Officer: PO ALEX VIERA

- § 87(2)(b) year old Hispanic male who stands 5'8" tall, weighs 190 pounds, and has black hair and brown eyes.
- On the date of the incident, PO Viera was assigned to patrol of sectors K and M in the 77th Precinct. He worked in uniform with PO Brent Curry from 3:00 PM to 10:35 PM and was assigned to marked patrol car #504309, a sedan.

Memo Book

PO Viera had the following entries in his memo book in regards to this incident. At 6:20 PM, he received a radio run request for additional police units at the intersection of Ralph Avenue and Sterling Place. At 6:21 PM, PO Viera noted he had arrived at the location as a backup for foot post. At 6:35 PM, PO Viera notes that he resumed patrol.

CCRB Statement

PO Alex Viera was interviewed at the CCRB on July 25, 2012 (encl. 24-26). On November 8, 2011, PO Viera recalled that he and his partner, PO Brent Curry, responded to a call for police assistance at Ralph Avenue and Sterling Place that was made by an officer PO Viera did not know, and who was identified by the CCRB as PO Yevgeniy Zaytsev. PO Viera did not recall who § 87(2)(b) arresting officer was, and when Investigator Tripathi told him that it was PO Zaytsev, PO Viera stated that he does not know PO Zaytsev.

When PO Viera and PO Curry arrived at the intersection of Ralph Avenue and Sterling Place, they saw PO Zaytsev and the defendant, identified by the CCRB as § 87(2)(b) running towards the marked patrol car. When PO Viera and PO Curry exited the car, § 87(2)(b) ran past PO Viera. PO Viera tried to grab § 87(2)(b) arm as he ran by, but § 87(2)(b) pushed him away. PO Viera recalled that the three officers - PO Zaytsev, PO Curry, and himself - all tried grabbing at § 87(2)(b) in order to catch him to put him in handcuffs. However, § 87(2)(b) kicked out and pushed at the officers while they tried to handcuff him. PO Viera recalled that it was dark outside at the time of this encounter, and for this reason, he was unable to determine if there were any civilian bystanders in the vicinity. PO Viera did not recall which officer was finally able to place handcuffs on § 87(2)(b) and also did not recall what steps the officers had to take to handcuff § 87(2)(b).

PO Viera did not see an officer strike § 87(2)(b) with an asp or baton or see any officer remove his gun and point it at any civilian during this incident. He did not hear an officer tell § 87(2)(b) “I’m going to fuck you up,” or otherwise use discourteous language at any point during this interaction. PO Viera did not use discourteous language himself during this incident.

PO Viera did not see an officer kick or punch § 87(2)(b) but admitted that he himself punched § 87(2)(b) once or twice on his arms because § 87(2)(b) was kicking and punching the officers while they were trying to handcuff him. PO Viera stated that the reason he punched § 87(2)(b) was because he was trying to force him to allow the officers to handcuff him.

PO Viera did not kick § 87(2)(b) and he did not punch any other part of § 87(2)(b) body. PO Viera recalled that § 87(2)(b) kicked him in the legs while the officers tried to handcuff him, but PO Viera could not recall how many times § 87(2)(b) kicked him. PO Viera did not recall hearing § 87(2)(b) ask anyone for medical assistance during this incident. PO Viera did not recall seeing any blood, cuts, or any other kind of injury on § 87(2)(b) face.

PO Viera stated that he recalled seeing § 87(2)(b) on the ground but did not recall how he got to the ground. PO Viera stated that while struggling with § 87(2)(b) the three officers fell to the ground with him, though he could not recall how this happened. However, later in the interview, PO Viera stated that he recalled that one of the other officers, PO Curry or PO Zaytsev, tackled § 87(2)(b) to the ground, but he could not recall which officer did this. PO Viera also stated that Mr. Moncreift had successfully been handcuffed before he fell to the ground but later in the interview, stated that § 87(2)(b) had been handcuffed only after he fell to the ground.

PO Viera did not recognize § 87(2)(b) from his CCRB file photograph. PO Viera did not know how § 87(2)(b) was transported to the station house or which officer took him to the station house. PO Viera recalled that additional police units responded to the scene but he did not recall where these units came from or who the responding officers were. PO Viera only recalled that PO Curry, PO Zaytsev, and himself tried to handcuff § 87(2)(b) and did not recall any other officers come to assist them in handcuffing § 87(2)(b).

PO Viera did not recall which sergeant verified § 87(2)(b) arrest, but he did recall that after § 87(2)(b) was handcuffed, he and PO Curry waited at the location for approximately fifteen minutes for a patrol supervisor and for a transport vehicle to arrive. PO Viera did not recall seeing a female officer at the scene.

Subject Officer: PO BRENT CURRY

- § 87(2)(b) year old white male who stands 6’2” tall, weighs 170 pounds, and has black hair and blue eyes.
- On the date of the incident, PO Curry was assigned to patrol of sectors K and M in the 77th Precinct. He worked in uniform with PO Alex Viera from 3:00 PM to 11:35 PM and was assigned to marked patrol car #5043, a marked four door sedan.

Memo Book

PO Curry noted that at 6:20 PM, he heard a radio run for an officer who needed assistance from an impact post at the intersection of Ralph Avenue and Sterling Place. At 6:35 PM, he noted that he resumed patrol.

CCRB Testimony

PO Curry was interviewed at the CCRB on August 30, 2012 (encl. 36-38). On November 8, 2011, PO Curry recalled hearing a radio run for officer assistance in regards to a foot pursuit near Ralph Avenue and Sterling Place. PO Curry recalled that an officer on an impact post had made this call, and that this same officer was the arresting officer. PO Curry and PO Viera were the first responders to the call for assistance. PO Curry recalled that they parked their patrol car in the middle of the street at the intersection of Sterling Place and Ralph Avenue.

PO Curry recalled that the intersection is a one-way street. Investigator Tripathi told PO Curry that the arresting officer's name was PO Zaytsev and asked if PO Curry knew him. PO Curry stated that he did not know PO Zaytsev personally but that he did recognize PO Zaytsev's face, since he often saw him at his old precinct. PO Curry did not know whether he or PO Viera was the vehicle operator on the day in question. Investigator Tripathi told PO Curry that the defendant's name was § 87(2)(b).

When they first got to the scene, PO Curry recalled that the first thing he saw was PO Zaytsev chasing after § 87(2)(b). When PO Curry and PO Viera first got out of the car, all three officers initially ran after § 87(2)(b). However, PO Curry noticed a second individual – not § 87(2)(b) but someone else who was with him, and who was identified by the CCRB as § 87(2)(b) brother, § 87(2)(b) – who had two pit bulls on a leash. § 87(2)(b) was following the foot pursuit between § 87(2)(b) and the officers.

PO Curry stated that almost immediately after exiting his car, he turned his attention to § 87(2)(b) at which point PO Viera and PO Zaytsev dealt with § 87(2)(b). For this reason, PO Curry stated he saw § 87(2)(b) for “approximately two seconds,” after which he turned his back to his partner and PO Zaytsev. Because PO Curry was dealing with § 87(2)(b) he did not see what PO Viera or PO Zaytsev were doing with § 87(2)(b).

PO Curry went over to § 87(2)(b) while PO Viera and PO Zaytsev tried to handcuff § 87(2)(b). PO Curry thought § 87(2)(b) was just a few feet away from § 87(2)(b) and the two officers. PO Curry recalled that the officers and § 87(2)(b) were in the middle of the street but that § 87(2)(b) was closer to the sidewalk. The two dogs were barking at a crowd of people who had gathered nearby. PO Curry noticed that § 87(2)(b) was moving forward with the dogs, who were irate. PO Curry thought that § 87(2)(b) might let the dogs go and so he drew his gun, pointed it at the dogs, and told § 87(2)(b) to step back from the sidewalk. At this point, he was approximately six to eight feet from § 87(2)(b). PO Curry told § 87(2)(b) to get back to the sidewalk and also told him not to release the dogs. § 87(2)(b) did go back to the sidewalk and it was at that point that PO Curry holstered his weapon. PO Curry did not recall whether or not § 87(2)(b) verbally responded to his command. PO Curry did not recall whether or not a civilian attempted to talk to him or otherwise interrupt what he was doing with § 87(2)(b) and the dogs.

PO Curry could not recall which additional officers responded to the call, but recalled that there were several. PO Curry did not know where these officers came from, but thought they must have come from another impact post, since the location is considered an impact zone. PO Curry thought PO Zaytsev was the officer who handcuffed § 87(2)(b).

§ 87(2)(b) was apprehended and PO Curry and PO Viera resumed their patrol. PO Curry did not see how § 87(2)(b) was transported back to the station house. PO Curry did not know who the sergeant was who verified the arrest, but did recall that he stayed at the scene until a sergeant arrived at the scene. PO Curry recalled that when the supervisor did arrive, that supervisor told all the officers at the scene to resume their patrols. PO Curry estimated that he was at the scene for approximately six minutes.

PO Curry did not recall hearing PO Zaytsev, PO Viera, or any other officer at the scene tell § 87(2)(b) “I’m going to fuck you up.” PO Curry did not say this to § 87(2)(b) himself. PO Curry did not use any other discourteous language with § 87(2)(b) during the incident and did not hear any other officer use discourteous language with § 87(2)(b) either. PO Curry did not see any officer take out a nightstick or an asp during this incident, and did not take out his own nightstick or asp during this incident. PO Curry did not hear § 87(2)(b) ask for medical assistance at the scene. PO Curry did not see PO Zaytsev or PO Viera kick or punch § 87(2)(b) at any point during this incident. PO Curry did not see how the officers placed handcuffs on § 87(2)(b) because his back was turned.

PO Curry thought that when he initially exited his vehicle, while chasing § 87(2)(b) he might have made brief physical contact with § 87(2)(b) but because he soon turned his attention to § 87(2)(b) he thought that at most, he might have touched § 87(2)(b) before going to § 87(2)(b). PO Curry stated that he did not punch or kick § 87(2)(b). PO Curry did not speak at all with § 87(2)(b). PO Curry did not recall seeing any visible injuries on § 87(2)(b) face or arms. PO Curry did not notice whether or not the pit bulls were wearing dog tags.

Witness Officer: PO DORIS CORDERO

- § 87(2)(b) year old Hispanic female who stands 5’2” tall, weighs 130 pounds, and has brown hair and brown eyes.
- On the date of the incident, she was assigned to the patrol of foot post 45 in the 77th Precinct. She worked by herself dressed in uniform from 1:30 PM to 10:05 PM.

Memo book

PO Cordero did not have any entries in her memo book related to this incident.

CCRB Testimony

PO Cordero was interviewed at the CCRB on August 9, 2012 (encl. 30-31). PO Cordero had no independent recollection of the incident involving § 87(2)(b) from November 8, 2011. Investigator Tripathi showed PO Cordero the CCRB file photograph of § 87(2)(b). PO Cordero did not recognize § 87(2)(b) from this photograph. Investigator Tripathi explained to PO Cordero that she had been called to the CCRB because § 87(2)(b) had been arrested on November 8, 2011, by PO Yevgeniy Zaytsev. PO Cordero confirmed that she knows who PO Zaytsev because he is, like her, assigned to impact duty. PO Cordero stated that she had worked with PO Zaytsev once or twice.

Investigator Tripathi informed PO Cordero that PO Zaytsev arrested § 87(2)(b) on November 8, 2011. PO Cordero still did not recall the incident. Investigator Tripathi told PO Cordero that the reason she had been called to the CCRB was because the SPRINT record from the incident indicated that foot post 45, the post she was assigned to on this date, called a 10-85, a call for officer assistance, regarding PO Zaytsev’s arrest of § 87(2)(b).

PO Cordero stated that she did not call the 10-85 radio run. She remembered that when PO Zaytsev called for assistance, he mistakenly identified himself over the radio as being foot post 45, even though he had not been assigned to that post. PO Cordero did not witness the arrest and did not see any part of the incident involving § 87(2)(b). Investigator Tripathi asked PO Cordero to explain how PO Zaytsev had called the 10-85 from her post. PO Cordero stated that PO Zaytsev did not have to call the 10-85 from a specific location, but by his post number. She

stated that he mis-identified himself as being foot post 45. PO Cordero pointed out that he stated that his location was on Ralph Avenue, which is not a part of foot post 45.

PO Cordero stated that she recalled hearing a 10-85 being called but stated that she did not respond to it. She stated that the incident location was between three and four blocks away from her assigned patrol location. She did recall hearing the operator announce foot patrol #45 and thinking that it was her patrol. She did not know any of the officers who responded to the incident, and that she does not know either PO Brent Curry or PO Alex Viera.

Medical Records

§ 87(2)(b) medical records from his visit to § 87(2)(b) on November 11, 2011, state the following. That he told doctors he did not lose consciousness as a result of this incident, that he reported that he did not receive blows to his head as a result of this incident, that he had no loss of vision or hearing as a result of this incident, that he had no swelling in his lower extremities, and that the reason he was at the hospital was to get checked up after an alleged assault by police officers. His records note that he had mild tenderness and swelling on his upper lip, as well as a small abrasion and bruise on the upper left side of his lip, and that he had bruising on his chest, right shoulder, right upper arm, right thigh, right lower leg, left shoulder, left upper arm, left thigh, and left lower leg.

NYPD Documents

SPRINT (encl. 60-64) and Roll Call

A male officer from the 77 Precinct, stationed at Post 45 asks for an additional unit at 1578 Sterling Place. An officer then calls in and says that the intersection is now Sterling and Ralph. The suspect is described as a black male. Auto 1758 responds to the location of Ralph and Sterling. 77K calls into note that they have one person in custody and no further units are needed at the location.

According to the 77 Precinct roll call, PO Alex Viera and PO Brent Curry were assigned to sector K.

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] (encl. 67)

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of January 20, 2013, with regard to the incident.

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b)

Subject Officers' CCRB History

- PO Yevgeniy Zaytsev, PO Alex Viera, and PO Brent Curry have never been disciplined pursuant to a CCRB complaint. (encl. 1).

Conclusion

Identification of Subject Officers

IAB identified PO Yevgeniy Zaytsev as an involved officer. § 87(2)(b) arrest report lists PO Zaytsev as his arresting officer. PO Zaytsev confirmed his role in this incident.

§ 87(2)(g)

§ 87(2)(g) PO Viera acknowledged being on the scene and punching § 87(2)(b) and because PO Curry acknowledged that he was on the scene and that he might have touched § 87(2)(b)

Investigative Findings and Recommendations

Allegation A – Discourtesy: PO Yevgeniy Zaytsev spoke discourteously to § 87(2)(b)

Allegation C – Force: PO Yevgeniy Zaytsev attempted to strike § 87(2)(b) with a nightstick.

Allegation D – Abuse of authority: PO Yevgeniy Zaytsev threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that PO Zaytsev asked him, “Does this look like a fucking training park to you?” He also alleged that PO Zaytsev said, “Get the fuck out of here,” to him,

“Why the fuck are you walking off? Come here, motherfuckers, come the fuck here,” and told § 87(2)(b) “Show me some fucking ID.” § 87(2)(b) stated that he did not have ID on him when he encountered PO Zaytsev. He also recalled that PO Zaytsev asked him for his ID four or five times, and while he said this, his hand was on his gun. This made § 87(2)(b) nervous and so he backed away from the officer, who followed him, then pinned him against a wheelchair ramp and swung his nightstick at § 87(2)(b). § 87(2)(b) was still holding the stick he was using to train his dog and put this stick in front of his face to prevent being hit by the nightstick, after which he ran down Sterling Place. Eventually, PO Zaytsev caught up to him and said, “I’m gonna fuck you up.”

PO Zaytsev stated that when he asked § 87(2)(b) for his ID, § 87(2)(b) walked away from him. PO Zaytsev also told § 87(2)(b) to drop a stick he was carrying which he had been using to train his dogs, which he refused to do. PO Zaytsev estimated that he asked for § 87(2)(b) ID and asked him to drop his stick approximately three times, after which § 87(2)(b) swung the stick at him and ran down the street. At this point, PO Zaytsev called for additional police units and chased § 87(2)(b) to the intersection of Sterling Place and Buffalo Avenue. When they got to this location, § 87(2)(b) turned around and took a fighting stance towards PO Zaytsev. PO Zaytsev tried to grab and handcuff § 87(2)(b) who resisted by flailing his arms and refusing to obey with PO Zaytsev’s request to put his hands behind his back. This struggle caused both PO Zaytsev and § 87(2)(b) to fall to the ground, after which several police cars arrived at the scene.

PO Zaytsev denied using discourteous language during this interaction, and neither PO Viera nor PO Curry recalled hearing PO Zaytsev use discourteous language during this incident. Neither PO Viera nor PO Curry recalled seeing the training stick or PO Zaytsev’s nightstick in their testimony and neither recalled hearing PO Zaytsev threaten § 87(2)(b) by saying, “I’m gonna fuck you up.”

§ 87(2)(g)

Allegation B – Force: PO Yevgeniy Zaytsev pointed his gun at § 87(2)(b)

§ 87(2)(b) stated that when PO Zaytsev first approached him, he had his gun drawn and pointed at him. PO Zaytsev denied ever having drawn his gun during this incident. PO Curry volunteered the following information in his testimony. That almost immediately after he arrived at the scene, he saw an individual with two dogs on a leash, who was identified by the CCRB as § 87(2)(b). PO Curry recalled that the dogs were barking at civilian bystanders at the scene, and that they appeared to be irate. Because the dogs were acting in an aggressive manner, PO Curry thought that they could be a danger to the civilians at the scene and so he drew his gun and pointed it at the dogs. § 87(2)(g)

§ 87(2)(g)

Penal Law 120.05, defines Assault in the Second Degree as “with intent to prevent...a police officer...from performing a lawful duty, by means including releasing or failing to control an animal under circumstances evincing the actor’s intent that the animal obstruct the lawful activity of such...police officer.” (encl. C-F)

§ 87(2)(g)

Allegation E – Force: PO Yevgeniy Zaytsev used physical force against § 87(2)(b)

§ 87(2)(b) admitted that he ran away from PO Zaytsev after he had requested to see his ID a number of times. § 87(2)(b) alleged that when PO Zaytsev caught up with him at the intersection of Ralph Avenue and Sterling Place, he hit § 87(2)(b) in the face and then threw him to the ground. § 87(2)(b) stated that this punch, in addition to the subsequent assault by the responding units, caused lacerations and swelling to his face. § 87(2)(b) medical records did not record such injuries, and his arrest photograph does not show any such injuries to his face.

PO Zaytsev stated that § 87(2)(b) had run away from him after refusing to show his ID and also refusing to put down a large stick he had been using to train dogs. PO Zaytsev stated that when he finally caught up with § 87(2)(b) he tried to grab § 87(2)(b) arms in order to place him in handcuffs, at which point § 87(2)(b) flailed his arms and refused to cooperate with instructions to place his hands behind his back. While struggling in this manner, the two men fell to the ground. PO Zaytsev continued to wrestle with § 87(2)(b) even after they hit the ground. After falling to the ground, additional police units arrived and assisted PO Zaytsev in handcuffing § 87(2)(b). PO Zaytsev stated that he did not punch or kick § 87(2)(b) during this struggle, and none of the officers interviewed in the course of this investigation recalled seeing PO Zaytsev punch or kick § 87(2)(b). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) penal law 35.05, which states that the use of physical force is justifiable and not criminal when “Such conduct is required or authorized by law or by a judicial decree, or is performed by a public servant in the reasonable exercise of his official powers, duties or functions.” (encl. A-B)

§ 87(2)(g)

Allegation F – Force: PO Alex Viera used physical force against § 87(2)(b)

Allegation G – Force: PO Brent Curry used physical force against § 87(2)(b)

§ 87(2)(b) stated that after PO Zaytsev threw him to the ground, several additional officers arrived at the scene and assaulted him, which resulted in lacerations to the left side of his cheek, both lips, and a black eye. PO Viera acknowledged punching § 87(2)(b) once or twice because § 87(2)(b) was kicking and punching the officers. PO Curry testified that he did not witness what happened with Mr. § 87(2)(b) because he focused his attention on § 87(2)(b). § 87(2)(b) arrest photo does not show any of the injuries that § 87(2)(b) alleged. However, his medical records show he did not have tenderness and swelling on his upper lips and abrasions on his lips and that he had bruising throughout his body.

§ 87(2)(g)

[Redacted text block]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date